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ALL NEW GOODS AT BARGAIN FIGURES.

# COURTENAY, CASE & GRAVELI

Owsley Block - Park Street - Butte, Montana



#### TEXT OF THE DECISION

(Continued from Sixth Page.)

continued from Sixth Page.)

sents a much more difficult question. The proof shows at least a technical interference on the part of the defendant company and its employes with one of the spurs or switchbacks of the plaintiff;s road. This is not on the main line, however, and does not interfere with any use of the road so far as the general public is concerned. There has been an injury done to the bridge above referred to, and at the beginning of this suit the defendants had a temporary structure in the shape of a trainway upon the road bed and tracks of the plaintiffs on the line of this switchback. There is also a serious question whether the defendant company and its employes have not at one point, to the west of this bridge and tramway, infringed slightly upon the roadbed claimed by the plaintiffs. The defendant company has an undoubted right to locate and build its road over the lands along this part of its route. The proof shows flaggin to be the owner of these lands and that his permission was obtained for entry by the defendant company through Manager Daly. By what right this switchback or spur was built over these lands by the Montany Railway company in 1889 or 1890, or by the Montana Union Railway company has a possessory right there, unless it can be said that the license to the defendant company amounts to a revocation of the plaintiff's license. This question will not now be considered. The proof, however, is very unsatisfactory on this point and also as to what the Montana Railway company is, who compose it, and who are its officers. It seems to be a curious kind of being, whose place of business is un-LIVINGSTON, Sept. 1.—Next Thursday morning the doors of two of Livingston's suspended banking institutions will each be hung with a sign bearing that old-time, modest announcement, "Bank Open."

These words will be displayed by the National Park and the Merchants, two banks which were among the last in the state to close, and which will be among the first to resume. The early resumpstate to close, and which will be among the first to resume. The early resump-tion of these banks has been made pos-sible by their perfect solvent condition and the assistance that has been rendered by present depositors. The plan adopted is not an unfamilliar one, namely, the signing of an agreement by open de-positors to take time certificates. This agreement has already been signed by agreement has already been signed by nearly all the depositors of either bank and by next Thursday there will not be over \$10,000 in the two banks subject to

By common consent of the Rocky Mountain Bell Telephone Co. and the Northern Pacific Railroad Co., the condemnation proceedings of the one has been quashed and the injunction proceedings of the other dissolved. This amicable agreement will permit of the speedy completion of the telephone line connecting Livingston, Bozeman, Butte, Helona, Deer Lodge and Missoula. When the injunction was issued against the telephone company, restraining it from building across the Northern Pacific right of way, work on the line was not suspended. Hence the poles are set and the wires strung to within 50 miles of Missoula, with the exception of the gaps where the is very unsatisfactory on this point and also as to what the Montana Railway company is, who compose it, and who are its officers. It seems to be a curious kind of being, whose place of business is unknown and whose officers, if they exist, have so little to do with the road and its operation that the officers of the other plaintiff do not know who they are. Apparently, this company has no existence, except in a formal way, for purposes not divulged. Work upon the defendant's road has been going on for about a year and a good deal of work has been done in close proximity to the road of the plaintiff. Where crossing on the main line of plaintiff's road have been necessary, they have been arranged by negotiations. Work in the vicinity of Anaconda and at the points about which this complaint arose has been going on for some weeks, and with the full knowledge of the Montana Union Railway company's officers. A large number of men have been engaged in the work, and the road bed is now partially constructed, all of which must have been at a 'large outlay of money. It seems that until the night preceding the beginning of this suit some sort of negotiations were pending for an amicable adjustment of the relaline crosses the right of way. A force of men left Helena yesterday and will work to Livingston closing these gaps. This will require about two weeks, according to the statement of Supt. Sommers, who was in Livingston from Helens to-day. Upon the completion of this work telephone communication will be established all along the line. The Livingston office will be in the store of J. O. Sax. A city exchange will not be put in this fall in Liv-

BUSINESS PICKING UP.

Two of Livingston's Suspended Banks

Under Sheriff Hogan returned from Horr Thursday evening, where he had been for the purpose of serving 20 differ-ent writs of attachment on the assignee of the Park Coal and Coke company. These attachments aggregate nearly \$19,000, and most of them were placed by the stock-holders of the company. The officer made a demand on the assignee for possession of the property, but that gentleman had profited by his recent experience in giving up possession of J. H. Conrod & Co.'s property, and refused to allow the sheriff lay of money. It seems that until the might preceding the beginning of this suit some sort of negotiations were pending for an amicable adjustment of the relative rights of plaintiff and defendant. After the papers had been prepared for this suit, the president of the Montana Union Railway company told Mr. Daly, who was acting for the defendant company, that suit would be brought. This was the only notice given by the plaintiff that the rights of the parties could not be arranged by negotiation. During the time the work has been going on, the spur or switchback in controversy has not been in use. This non-use of it may or may not have been caused by the friendly interference of Manager Daly in the closing down of the upper works of the Anaconda Mining company. The defendant company has not interfered, except in a temporary way, with the running of trains or with the safety of the road bed of the plaintiffs, this part of the road, except at the bridge, is in good condition for the use for which it was evidently intended, and the damage at the bridge is susceptible of exact compensation. The tramway upon the road near the bridge is certainly a temporary trespass upon the plaintiff's possession, but only a temporary one, and to assume charge of the property stipulated in the writs. Now comes W. R. Rhoades and George Welcome of Horr with a suit instituted in the district court of Lewis and Clarke counties, against the stockholders of the Park Coal and Coke company for the satisfaction of labor claims aggregating \$10,000. The plaintiffs ask the court for a decree requiring the assignee to disclose and report fully all property in his hands, and to sell the same for the satisfaction of plaintiffs' wage-worker claims assigned to them 60 days preceding the assignment of the Park Coal and Coke company. Taken all in all, matters are in a very complicated condition, and much litigation is likely to The Livingston Coal and Coke company

has reduced the price paid for mining coal at Cokedale from \$1 to 90 cents per

The funeral of Roy McPherson, the boy who was dragged to death by a horse on a ranch near the city, took place Friday forenoon from the residence of Mr. and Mrs. Edward Cameron.

Born, to the wife of H. D. Hefferlin, in this city, on Friday, Sept. 1, a son. Judge J. A. Savage has returned from looke, where he had been for the purpose of taking depositions in the mining contest case of C. W. Hoffman of Bozeman versus S. A. Beecher of St. Paul, involving the title to the Silver Queen and Lake Superior claims in the New World district. The case will be tried before Judge Milburn at Billings at the next term of court.

World's Fair Buildings. The Horticulture building. Height of dome 132 feet. Cost of building \$300,000. The Chicago Union Pacific and Northwestern line offers rater as cheap as the cheapest and unexcelled accomto Chicago.

See agent U. P. system for detailed in-The Woman's building. Just south of

The Woman's building. Just south of the 59th St. entrance. Dimensions 200 by 400 feet. Cost \$140,000. Every lady should visit it. Don't forget that the Chicago, Union Pacific and Northwestern line offers the best service and rates as cheap as any line to Chicago.

For additional information call on the Union Pacific agent.

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On the 15th of each month exeursion tickets are sold to Utat's and California points as follows:

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To Los Angeles and return. 55

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Tickets to California points and limited to six months and to Salt Lake 62 clays.

The Montana State College of Agrant-ture and Mechanic Arts.

This institution will open at Bozyman, Mont., on Sept. 15. Instruction will be given in the following courses: Agriculture, Domestic Economy, Applied Science, Business, Musicand The Academy. Tuition in any course except music will be \$10 per year. Board and lodging, \$4 and upwards per week. For catalogue address

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Montana University is the best equipped boarding school in Montana, and its terms by far the most moderate. Board and tuitton in literary branches range from \$224 to \$242 for the school year, according to the course pursued. Fall term opens Sept. 14. Send for catalogue to the president. F. P. Tower, A. M., D. D., Helena, Mont.

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GRANDY & MURRAY. Wood and Coal, Mail Orders Solicited, Telephone 182. 201 S. M. in, Eutte,

must be irreparable in its nature.

And not only this, the damage must be of such a pressing character that serious injury would result to the plaintiff if the aid of a court of equity was withheld. The injury threatened to the property involved must be of such a character as will permanently impair its future enjoyment. I do not find that this condition of things exists in this case, and on this branch of the case the injunction is for the present denied, with the reservation that if, upon final hearing, when the parties shall have had opportunity to present all their proof, it shall appear that the defendants have usurped any of the franchises and rights of the plaintiffs, they will be compelled by the order of this court to restore them, besides paying to the plaintiff whatever pecuniary damage they have suffered by such usurpation.

Theo. Brantly, judge. Passengers who don't wish to change cars at the Missouri river enroute to points beyond, should travel via the Union Pacific and Chicago and North Western

road near the bridge is certainly a tem-porary trespass upon the plaintiff's pos-session, but only a temporary one, and does not endanger or interfere with the general traffic of the road. To issue an injunction at this time would prevent the

commission of a technical trespass from which the plaintiff company will not be seriously injured. It would, however, put

a stop to the operations of the defendant, which have approached a considerable way towards completion. In other words, an injunction would put a stop to the prosecution of an important public enter-

prise, and that too upon testimony which leaves the plaintiff's title in doubt, and which shows that the plaintiff can be fully compensated by his suit for damages and

such a restraining order as may be made upon a full hearing of all the proof in the case at the final hearing of the cause. To

case at the final hearing of the cause. To warrant the interference of equity in restraint of trespass, two conditions must co-exist—complainants title must be established, and the injury complained of must be irreparable in its nature. And not only this, the damage character